

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Application of)	
)	
LONG BEACH MEDICAL CENTER)	FCC File No. 0000493763
)	
For Renewal of Public Safety Pool)	
Conventional Private Land Mobile Radio)	
Station KLD816, Long Beach, New York)	
)	

ORDER ON RECONSIDERATION

Adopted: September 9, 2002

Released: September 9, 2002

By the Chief, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us a petition for reconsideration (Petition) submitted by Long Beach Medical Center (Long Beach) on February 21, 2002.¹ Long Beach seeks reconsideration of a December 21, 2001 action by the Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau denying its request for waiver and dismissing the above-captioned application for renewal of Private Land Mobile Radio Station KLD816, Long Beach, New York.² For the reasons set forth below, we dismiss the Petition as untimely.

2. *Background.* On April 4, 2001, Long Beach's authorization for Station KLD816 expired. On June 18, 2001, Long Beach submitted the above-captioned application to the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division (Branch) seeking modification and renewal of its license to operate Station KLD816, Long Beach, New York.³ Long Beach included a waiver request in its filing for Station KLD816 in connection with FCC File Number 0000493763. In the reinstatement request, Long Beach explained that (a) because the electronically filing process was "new" that a filing attempt on January 30, 2001 was unsuccessful, (b) that subsequent attempts at renewal in a timely fashion indicate a convincing effort of good faith to comply with FCC regulations, and (c) that the radios used under this license are a crucial component in the day-to-day operation of the medical center, and are also designated in the emergency preparedness policy as a backup to the in-house paging and telephone systems.⁴

¹ See Letter dated January 11, 2002 from Gary Rubin, Director of Engineering, Long Beach Medical Center to Secretary, Federal Communications Commission (Petition).

² See Letter dated December 21, 2001 from Ramona E. Melson, Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, to Mr. Gary Rubin, Director, Engineering, Long Beach Medical Center (Waiver Denial Letter).

³ See Application FCC File number 0000493763 filed on June 18, 2001; Long Beach Request for Waiver (filed June 18, 2001) (Waiver Request).

⁴ Waiver Request at 1.

3. On December 21, 2001, the Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau issued the Waiver Denial Letter. The Waiver Denial Letter dismissed the renewal application for Station KLD816 because Long Beach's attempts to file its application did not demonstrate sufficient due diligence to justify a waiver of Section 1.949.⁵ The Waiver Denial Letter also concluded that Long Beach's failure to file an acceptable renewal application within thirty days of the license expiration date was a result of Long Beach not following the specific directions and instructions provided by the Commission in its correspondence and notices.⁶ The Commission received a copy of the Petition, which was dated January 11, 2002, on February 21, 2002.

4. On January 3, 2002, Long Beach filed an application⁷ for Special Temporary Authority (STA), which the Branch granted on January 7, 2002 for a period of six months.⁸ On June 25, 2002, Long Beach filed an application requesting an extension of the STA.⁹ On June 26, 2002, the Branch granted Long Beach's application and extended the STA until December 26, 2002.

5. *Discussion.* Section 405 of the Communications Act, as amended, sets forth the requirements that a petitioner must satisfy before we may consider the petitioner's pleadings on reconsideration.¹⁰ Section 405, as implemented by Section 1.106(f) of the Commission's Rules, requires a petition for reconsideration to be filed within thirty days from the date of public notice the Commission's action.¹¹ In addition, Section 1.106(i) of the Commission's Rules provides that a petition for reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.¹²

6. In this case, the date of public notice of the denial of Long Beach's waiver request was December 21, 2001, the date appearing on the Waiver Denial Letter.¹³ The deadline for filing petitions for reconsideration of that action was January 22, 2002.¹⁴ The Office of the Secretary did not receive Long Beach's Petition until February 21, 2002. Therefore, we find that the Petition was untimely. The filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late.¹⁵ Consequently, we conclude that the Petition for Reconsideration submitted by Long Beach must be dismissed as untimely.

⁵ Waiver Denial Letter at 2.

⁶ *Id.*

⁷ See Application FCC File No. 0000720650 (filed Jan. 3, 2002).

⁸ Call Sign WPTX402.

⁹ See Application FCC File No. 0000937886 (filed June 25, 2002).

¹⁰ 47 U.S.C. § 405.

¹¹ 47 U.S.C. § 405; 47 C.F.R. § 1.106(f).

¹² 47 C.F.R. § 1.106(i).

¹³ See 47 C.F.R. § 1.4(b)(5).

¹⁴ The thirtieth day after December 21, 2001, was January 20, 2002, which was a Sunday. Monday, January 21, 2002 was a federal holiday. Since that day was a holiday, petitions for reconsideration were due on the next business day, Tuesday, January 22, 2002. See 47 C.F.R. § 1.4(h).

¹⁵ See, e.g., Panola Broadcasting Co., *Memorandum Opinion and Order*, 68 FCC 2d 533 (1978); Metromedia, Inc., *Memorandum Opinion and Order*, 56 FCC 2d 909, 909-10 (1975).

7. Should Long Beach wish to obtain a valid authorization for this station, it must file a new, properly coordinated application.¹⁶ Furthermore, if Long Beach desires to continue operating this facility until it receives a new authorization, it must obtain authorization to do so.¹⁷

8. Accordingly, IT IS ORDERED pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the petition for reconsideration submitted by Long Beach Medical Center on February 21, 2002 IS DISMISSED.

8. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble
Chief, Policy and Rules Branch
Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

¹⁶ See 47 C.F.R. § 90.175.

¹⁷ See 47 C.F.R. § 1.931.